Amendments to the Drawings

The attached sheet of drawings includes changes to FIG. 1D. This sheet, which includes FIG. 1D, replaces the original sheet including FIG. 1D.

A reference number 180 for a cluster has been amended to reference number 181.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Claims 1-30 are pending in the application. Claims 1-3, 5, 9-10, 13-18, and 22-27 have been amended. Reconsideration is respectfully requested. Applicants submit that the pending claims 1-30 are patentable over the art of record and allowance is respectfully requested of claims 1-30.

Applicants would like to thank Examiner Bruckart for holding a telephone interview with their representative, Janaki K. Davda, on June 13, 2007. Proposed claim amendments to claims 1, 9, and 10 and the cited prior art were discussed. Also, proposed claim amendments to claim 22 and the 35 U.S.C. 101 rejection was discussed. No agreement was reached.

The Specification and Drawings have been amended to correct a minor error. No new matter has been added.

Claims 22-30 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended claim 22 to recite a "computer readable storage medium".

Although Applicants amended claim 22 to overcome the non-statutory subject matter rejection, Applicants are not conceding in this application that claim 22 in the pre-amended form is invalid for being directed to non-statutory subject matter, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the examiner. Applicants respectfully reserve the right to pursue this and other claims in this present application and one or more continuations and/or divisional patent applications. The reasons for the patentability of article of the manufacture claims that cover transmission media as well as other subject matter, such as hardware and computer readable storage, are articulated in the non-binding decision of the U.S. Patent and Trademark Board of Patent Appeals and Interferences in Ex parte Frederic Bachout et. al, Appeal No. 2006-0688, dated July 12, 2006, pgs. 7-9. In this case, the Board found that "computer readable media having instructions therein are directed to statutory subject matter." (pg. 9).

Claims 1, 3-9, 11, 13-16, 19, 22-25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,696,895 by Hemphill et al. Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended certain claims.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 1 describes at least two server processes, including a first server process and a second server process, adapted to perform tasks issued by a browser and a server system comprising two clusters adapted to perform tasks issued by a browser (e.g., Specification, page 4, paragraph 9; FIGs. 1A – 1E). Each of the two clusters includes: a first agent process at the cluster that is registered with the first server process to notify the first server process that the first agent process exists to perform tasks for the first server process to complete the tasks issued by the browser and a second agent process at the cluster that is registered with the second server process to notify the second server process that the second agent process exists to perform tasks for the second server process to complete the tasks issued by the browser ?? (e.g., Specification, page 1, paragraph 4; page 4, paragraph 9; page 9, paragraph 25; pages 10-11, paragraphs 29 – 31; FIGs. 1A-1E). When one of the first agent process and the second agent process fails, the other of the first agent process and the second agent process continues processing in the cluster, and, when one of the two clusters fails, the other one of the two clusters continues processing in the server system (e.g., Specification, page 6, paragraph 16).

On the other hand, the Hemphill patent describes two servers in FIG. 1, but, two servers do not anticipate a server system with two clusters. Also, the recovery agents of the Hemphill patent perform heartbeat functions, whereas the agent processes exist to perform requests for the server processes to complete tasks issued by the browser.

The Hemphill patent describes a failover when a server fails, which does not anticipate that, when one of the first agent and the second agent fails, the other of the first agent and the second agent continues processing in the cluster, and that, when one of the clusters fails, the other cluster continues processing in the server system.

Thus, claim 1 is not anticipated by the Hemphill patent. Claims 13 and 22 are not anticipated by the Hemphill patent for at least the same reasons as were discussed with respect to claim 1.

Each of dependent claims 3-9, 11, 14-16, 19, 23-25, and 28 incorporates the language of one of independent claims 1, 13, and 22 and adds additional novel elements. Therefore, dependent claims 3-9, 11, 14-16, 19, 23-25, and 28 are not anticipated by the Hemphill patent for at least the same reasons as were discussed with respect to claims 1, 13, and 22.

In addition, claim 9 describes means for collecting configuration information, including how many storage devices are in the cluster, and state information, including whether each storage device is available or unavailable; means for storing the configuration and state information as persistent data at the cluster; under control of the first agent process, (i) means for retrieving stored configuration and state information and (ii) means for transmitting the retrieved configuration and state information to the first server process; and, under control of the second agent process, (i) means for retrieving stored configuration and state information and (ii) means for transmitting the retrieved configuration and state information to the second server process (e.g., Specification, page 9, paragraph 26; FIG. 2C). On the other hand, the Hemphill patent is cited as describing a heartbeat message (Col. 6, lines 24-45). Applicants have amended claim 9 to clarify that configuration information is not anticipated by a heartbeat message. Also, both agent processes retrieve and transmit to respective server processes. Thus, claim 9 is not anticipated by the Hemphill patent.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 5,696,895 by Hemphill et al. in view of U.S. Patent Publication No. 2003/0187927 by Winchell. Applicants respectfully traverse.

Applicants respectfully submit that independent claim 1 is not taught or suggested by the Hemphill patent, that the Moiin patent does not cure the defects of the Hemphill patent, and that the cited combination does not teach or suggest the subject matter of claim 1.

Dependent claim 2 incorporates the language of independent claim 1 and adds additional novel elements. Therefore, dependent claim 2 is not taught or suggested by the Hemphill or Winchell references, either alone or in combination.

Claims 10, 17-18, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 5,696,895 by Hemphill et al. in view of U.S. Patent No. 6,108,699 by Moiin. Applicants respectfully traverse.

Applicants respectfully submit that independent claims 1, 13, and 22 are not taught or suggested by the Hemphill patent, that the Moiin patent does not cure the defects of the Hemphill patent, and that the cited combination does not teach or suggest the subject matter of claims 1, 13, and 22.

Each of dependent claims 10, 17-18, and 26-27 incorporates the language of one of independent claims 1, 13, and 22 and adds additional novel elements. Therefore, dependent claims 10, 17-18, and 26-27 are not taught or suggested by the Hemphill and Moiin patents, either alone or in combination.

Also, for example, amended claim 10 describes that the first agent process and the second agent process are launched at one of the clusters at which the first agent process is registered with a first server process and the second agent process is registered with a second agent process. At least one of changed configuration information and changed state information for the cluster is received, wherein the configuration information includes how many storage devices are in the cluster, and wherein the state information includes an indication of whether each storage device is available or unavailable, and the at least one of changed configuration information and changed state information is stored as persistent data at the cluster (e.g., (e.g., Specification, page 7, paragraph 20; page 9, paragraph 27 – page 10, paragraph 28). One of the at least one changed configuration information and changed state information for the cluster is broadcast (e.g., Specification, page 7, paragraph 20; page 9, paragraph 27 – page 10, paragraph 28). Under control of the first agent process, the stored at least one of changed configuration information and state information is retrieved and transmitted to the first server process (e.g., Specification, page 10, paragraph 28). Under control of the second agent process, the stored at least one of changed configuration information and state information is retrieved and transmitted to the second server process (e.g., Specification, page 10, paragraph 28).

The Moiin patent describes a cluster that is generally a number of nodes of a distributed computer system which collective cooperate to perform distributed processing (Col. 1, lines 49-51). One or more nodes petitioning to join the cluster each determine to which nodes of the distributed computer system the nodes are connected (Col. 2, lines 11-14). The petitioning nodes send a reconfigure message proposing a new cluster which includes as members all nodes to which the petitioning node is connected (Col. 2, lines 17-19).

The reconfiguration message of the Moiin patent is cited as one of changed configuration information and state information. Applicants have amended the claims to clarify that the configuration information includes how many storage devices are in the cluster and that the state information includes an indication of whether each storage device is available or unavailable.

Thus, Applicants respectfully submit that the cited combination does not teach or suggest claims 10, 17-18, and 26-27.

Claims 12, 20-21, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 5,696,895 by Hemphill et al. in view of U.S. Patent Publication No. 2003/0093467 by Anderson. Applicants respectfully traverse.

Applicants respectfully submit that independent claims 1, 13, and 22 are not taught or suggested by the Hemphill patent, that the Anderson patent application does not cure the defects of the Hemphill patent, and that the cited combination does not teach or suggest the subject matter of claims 1, 13, and 22.

Each of dependent claims 12, 20-21, and 29-30 incorporates the language of one of independent claims 1, 13, and 22 and adds additional novel elements. Therefore, dependent claims 10, 17-18, and 26-27 are not taught or suggested by the Hemphill and Anderson references, either alone or in combination.

Conclusion

For all the above reasons, Applicants submit that the pending claims 1-30 are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0449.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

Dated: June 13, 2007   By:__/Janaki K. Davda/_____

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